

Francis, Lord Bacon :

OR, THE
C A S E
OF

*Private and National Cor-
ruption, and Bribery,*

Impartially Consider'd.

Address'd to all *South-Sea* Directors,
Members of Parliament, Ministers of
State, and Church-Dignitaries.

By a True-born ENGLISHMAN.

*It shall not be fit for us to importune so Judicious a
Senate, who know how much they hurt the Innocent,
that spare the Guilty.*

B. JOHNSON's Sejan.

L O N D O N,

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BRITISH MUSEUM

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TO HIS GRACE,
The Most NOBLE,
PHILIP,
Duke, Marquiss, and Earl
of *WHARTON*.

MY LORD,



MUST own I shall
want your Pardon for
the Presumption of
throwing these Sheets at
your Feet, without YOUR GRACE'S

A 2

Leave

Leave to warrant me in it: A
Presumption which is owing to
my Unhappiness in not being
personally known to You, and at
a Loss how to be introduced to
YOUR GRACE.

IT is, indeed, in some sort a
Crime against Ceremony; but a
much less Crime than those *Dedi-*
cators commit, who abuse a Great
Man with his own Leave, by li-
belling him with Praises, which
every body are ready to agree he
has no Title to.

FLATTERY, MY LORD, is
not design'd to have any Portion
in this Address; there are Reasons
for which YOUR GRACE is more
strongly entitled to these Sheets
than any other Nobleman in
England: and for those Reasons
only, they are with all Humility
inscrib'd

inscrib'd to You. It is YOUR GRACE's Zeal and vigorous Behaviour, in the greatest Assembly in *Europe*, that draw this Address of Thanks upon You: The Resolution you have shewn in prosecuting the *known* Betrayers of your Country, and your Accuracy in searching out the *latent* Traytors, (who, like Miners in a Siege, work unseen, and finish their Designs with more sure Destruction) have distinguish'd YOUR GRACE as a *Patriot*, that has the Welfare of these Nations much at heart, and is both compassionate, and resentful, of the Injuries with which they are wounded.

THE World allows to *Cicero* as great Praise for detecting and prosecuting those concern'd with *Catiline* in his Conspiracy, as to *Fabius*, or *Scipio*, for the greatest Conquests

Conquests obtain'd in the Field :
 Nor shall we owe less to those
 Patriots, who distinguish'd them-
 selves against *This* Conspiracy ;
 which, tho' differing in Circum-
 stances, resembles It in its Con-
 sequences : nay, is bigger, we
 may say, of Mischief than *That*
 of *Catiline*, by as much as the
 Ruin of a whole Country is a
 more pernicious Piece of Vil-
 lany, than the Burning of any
 single City.

IT was observ'd to the eternal
 Praise of *CICERO*, that he was
resolute and *bold* in the Senate ;
 Virtues at that time peculiarly
 necessary, when the Criminals
 were of such Power and Suffi-
 ciency, as to be able to shock the
 State. May YOUR GRACE have
 the *Success*, as you have the *Reso-*
lution, of this Great Man ! You
 come

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come to the Business furnish'd
with all his discerning Faculties ;
and the same unwearied Applica-
tion appears in YOUR GRACE to
trace these Frauds to their most
hidden Sources.

CICERO had been long in-
ur'd to Pleadings at the Bar, and
train'd up his Eloquence in pri-
vate Causes, before he signaliz'd
himself to the State by That Dis-
covery : YOUR GRACE has had the
Advantages of no such Exercise ;
but You start upon the World at
once with all the Powers and Ad-
dress of a consummate Orator,
and able Statesman. You emulate
Him in all his Graces, without
lessening those happy Talents
by *his* Prolixity, or Self-Admi-
ration.

IT

IT has been look'd upon as the Misfortune of this degenerate Age, that Many think they are chosen into Offices to serve Themselves, and not the Publick : Wealth and Acquisition of Fortune to These, is all the Fame they pant after, or hope to be recorded for ; and Poverty with a clean Heart seems a Disgrace infamous and unsupportable : Such Great Men, as my Lord HALIFAX has finely observ'd, are remarkable for Nothing but their Greatness ; like prodigious Mountains, whose Heights astonish us, but when we come to examine them, we find they produce neither Herb nor Plant.

YOUR GRACE has very different Sentiments of Nobility ; your Breast burns with the Emulation
of

of other Honours, than what are deriv'd from vast Estates, and a Pomp of Titles. You think like *CATO*, that a Nobleman ought not to be a private Man, *Non Sibi, sed Patriæ natus.*

BUT I am stepping into a Character, which They, who do not know YOUR GRACE's Virtues, will think Flattery; and they, who envy them, will hate for eclipsing their own. I was almost going to wish, that YOUR GRACE may continue the Hatred of the Latter, who make such a despicable Figure in Greatness; that is, that you may shine out still in full Lustre, and animate those to such real Grandeur by your bright Example, that every Nobleman of *England* may be a *Patriot* for his Country: That the Interest and Honour of the Publick may be so

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so much their Concern, that Self-Interest and sordid Views may not dare to shew themselves in that Illustrious Body. I am, with the most profound Respect,

MY LORD,

YOUR GRACE'S *most*

Devoted and Obedient

Humble Servant,

Britannicus.



THE
P R E F A C E.



I *T* was an Old Law among the Locrians of Italy, as we are inform'd by very good * Authorities, That the Man who propos'd to make any new Law, should be obliged to do it with a Rope about his Neck, in which he was to be strangled forthwith, if he fail'd of carrying his Point; and the Majority determin'd his Proposition prejudicial to the Publick.

I DON'T find that there is any such Custom now subsisting in any part of Christendom; and the Reason, perhaps, may be, because all our Neighbouring Monarchies are Absolute, and their Laws

* Diodor. Sicul. Polybius. Hierocles apud Stobæum. Demosthen. in Timocratem, &c.

made by the Edicts of the King only. Had this peculiar Custom obtain'd in our Constitution, I am in doubt whether the Advantage, or Prejudice of it, would have been greater.

ON the one hand, it would rid us of a Number of busy Fools (for Fools will be meddling, let the Consequences be never so hazardous) and it would contribute to deter Knaves (who have ever little private Views of their own) from offering their Schemes to the Ruin of the Publick: as, on the other hand, indeed, it might hinder just and wise Men from promoting Laws for the Good of their Country; since none are so diffident of their own Parts and Opinions, as Men of sound Sense and solid Judgment. Therefore, I believe, it will be allow'd, that our Constitution, as it stands, is infinitely preferable to that of the old Locrians, and liable to fewer Inconveniences.

WITH us every Member of the Legislature is at liberty to propose what he esteems to be for the Interest of the Subject; which, being consider'd and weigh'd by the whole Body, whenever a Difference of Opinion arises, they are immediately to divide, and the Matter is carried, or rejected, by the Majority: And, certainly, it is but reasonable to suppose, that there is most Wisdom, most Honour, and most Virtue, in the greater Number. Again, if some Inconveniences, which were not foreseen, should attend a Law that was design'd for the Good of the Commonwealth, the same Power, that enacted, may and will alter, or utterly repeal it, where the Remedy does not come too late.

I AM led into this Consideration from the present Clamours of a ruin'd People, and from the vigorous
and

and publick-spirited Resolutions of both Houses to redress their Injuries. It must be a Comfort to every Sufferer in this Calamity, who gave a Vote for the Election of a Member, to see his Representative in Parliament bravely labouring to do him Justice, by punishing those Miscreants who have been the Cause of it; and, like a skilful and wise Physician, searching into the unseen and latent Sources of the Distemper, before he ventures to apply the Remedy, lest he should apply it in the wrong Place.

THE Learned in Physick know, that the Infection often lies remote from the Part where its Symptoms first shew themselves; so that if an Arm be corrupted, and it spread to the Hand, it would be ridiculous to think of curing a Malignity, that reaches so high, by cutting off a Finger. It is much the same thing in the Case of the South-Sea: If the flagrant Frauds of that Affair have taken rise from some undiscover'd Springs, and yet only appear'd in the Persons of the Directors; the bare sacrificing of those servile Wretches, will hardly content or stop the Resentments of an exasperated People.

NOR will the Names of those Honourable Members be forgot to Posterity, who shall, upon this Occasion, go thro with an Enquiry, so essential to support the Honour of their King, and the Welfare of the People; both which, we have too much Reason to fear, have been equally abused in the Management of this Project. I have somewhere read a Story of a Member of the House of Commons, who, when a Bill was brought in by the Court-Party, which he judg'd would be of pernicious consequence to the People, oppos'd it with all the Vehemence and Interest imaginable; and when the Tide of its Abettors run

too strong against him, finding his *Honest Endeavours* to no purpose, he petition'd the House, that the Borough, for which he serv'd, might be exempted from that Law. Pity it is, that his Name is not recorded to Posterity; and that he has not a Monument of Marble to perpetuate the Memory of so glorious an Integrity! Nor Gold, nor Preferment, could bribe him so much as to be silent in a Cause, where the Duty of a Patriot commanded him to speak.

UPON the Mention of this worthy Gentleman, I cannot help looking back on some noble Patriots of our own, who, while this pernicious Affair was depending, gave their Opinions against it with so much Candour and Strength of Argument; and who, like Prophets, foretold every step of the Mischiefs, which at this instant overwhelm us. I don't doubt, but every Honourable Member thought he was serving his Country, while he promoted this fatal Scheme; but I can't help giving the Preference to the Wisdom of those, who saw Effects at such a distance, and discover'd the Traces of Villany and Mischief lurking under the Masquerade of publick Service, and the Interest of the Nation.

IT has often happen'd in private, as well as civil Life, that we will not believe the Danger of Things, till the Evil is come upon us. It puts me in mind of a Fable in Æsop, very much à propos to our Circumstances.

THERE was a Country Fellow at work a sowing his Grounds, and a Swallow (being a Bird famous for Providence and Foresight) call'd a Company of little Birds about her, and bad them take good notice what that Fellow was a doing. You must know
(says

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(says the Swallow) that all the Fowler's Nets and Snares are made of Hemp or Flax; and That's the Seed that he is now sowing. Pick it up in time, for fear of what may come on it. In short, they put it off, till it took Root; and then again, till it was sprung up into the Blade. Upon this, the Swallow told them once for all, that it was not yet too late to prevent the Mischief, if they would but bestir themselves, and set heartily about it; but finding that no heed was given to what she said, she e'en bad Adieu to her old Companions in the Woods, and so betook herself to a City Life, and to the Conversation of Men. This Flax and Hemp came in time to be gather'd, and wrought, and it was this Swallow's Fortune to see several of the very same Birds that she had forewarn'd, taken in Nets, made of the very Stuff she told them of. They came at last to be sensible of the Folly of slipping their Opportunity; but they were lost beyond all Redemption first.

GOOD Counsel, as Sir Roger L'Estrange observes, is cast away upon the Arrogant, the Self-conceited, or the Stupid, who are either too proud to take it, or too heavy to understand it. So Cautions, or the common Ways of anticipating, or defeating Conspiracies, are below the Wisdom of Men of Intrigue and Cabal; till, at last, a Faction comes to be too hard for the Government.

I HAVE but one thing more to add, and then shall conclude my Preface. It was very justly observ'd in a late Paper, the Reputation of which is every day rising in Town, that * the Security of Property, and the Freedom of Speech, always go together in Free Governments: † But to do

* † London Journal, N^o 80.

publick Mischief, without hearing of it, is only the Prerogative and Felicity of Tyranny.

I MAY be thought, perhaps, by some, to speak with too much Liberty in the following Discourse; but let them remember, that if there be any thing either in the Arguments or Examples, which tallies with the Conduct and Characters of Persons living, I make no Applications. If any body has a mind to take the Scandal to Himself, much good may it do him.——Qui capit, ille facit.



Francis,



Francis, Lord Bacon:

O R,

*The CASE of National
Bribery, &c.*



SHALL begin this Discourse with a very noble, and at this Juncture no less seasonable Observation, tho' it be in Fact of a much later Date than what is pretended. *Zaleucus*, the Lawgiver of the *Locrians*, (and who, like many of our present Set of Lawgivers, was at first of very mean Descent and Expectations) is made to introduce that System, which he compiled for the Use of
B his

his Countrymen, with this formal Preface :
 * *That every Member of a Commonwealth, in the first place, ought to believe there are Gods; which they will be convinced of, by looking up to Heaven and the World, and considering the Beauty and Order of all things there.* The Consequence of this Persuasion seem'd to Him, that we should thereby be oblig'd to honour the Divine Powers, and have a stricter Regard to our own Actions and Conduct; that we should shew much less Reason, than we are willing to allow ourselves, if, while we observ'd so just and beautiful a Regularity above, we could suffer ourselves to be so wild and *eccentric*, as I may say, in our Motions below.

NOW the nearest Pretence that we have of imitating this Divine Regularity, must be by the Provision of good and wholesome Laws: Laws, establish'd by the *Wisdom*, and not the *Caprice* of the Legislators: Laws, promoted neither by *Party-Interests*, nor *Party-Passions*, where the Honour and Safety of the Government is principally consider'd, and the Sanctity of *Power*, and *private Right*, are equally guarded.

IT has happen'd in all Countries, that the Prince very often has been a greater Stranger to the Constitution than his Ministers; and from this Misfortune it has as often happen'd,

* Τὰς καλοικίας τῶν πόλιν καὶ τῶν χώρων, πέντας παῖ-
 τον πεπαιδαι χρεὶ καὶ νομίζων θεῶν εἶναι, καὶ ἀναβλέπωντας ἐς
 ἑαυτὸν, καὶ τὸν κόσμον, καὶ τῶν ἐν αὐτοῖς διακόσμησιν καὶ τάξιν.
 Zaleuci-Proœmium apud Stobæum.

that Corruption and oblique Designs have got the start of Justice and a Nation's Interest. This is certainly far from being our immediate Case, who have a Prince, whose Wisdom, or Indulgence, is disputed by none but *Jacobites*; and who is happy in a Ministry, that have Resolution and Integrity enough to fall in with his Measures, for the Safety of their Country.

WHERE Magistrates are in themselves weak, and uninform'd in the Duties of their Charge, they are at best but *Conduits*, to issue out to the People what is infus'd into them at the Passage of their *Ears*; or like that wooden Head, so celebrated in King *Charles the Second's* Time, that had a Faculty of rewording whatever its wise Spectators were pleas'd to say to it. If ever such Machines have been at the Head of Affairs, no wonder that Impositions have spread and flourish'd, and Commonwealths been oppress'd in their Liberties, or Fortunes, thro' the Inability of their Directors, either in feeling, or opposing, the Incroachments of Fraud, and pernicious Practices!

BUT I would not be thought to mean, that *Ignorance* is the only Inlet to *Knavery*; if we look back, indeed, into the Annals of other Ages and Countries, we shall be furnish'd with Instances, that stupid and indolent Princes have been cajol'd, by the Artifices of their designing and self-interested Ministers: but the World is now improv'd in Judgment and Politicks, and the Princes, at least of *Europe*, come to the Task of Power, well read in all the *Arcana's* of *State*, and *Laws* of *Nations*: They know the

Limits of *Prerogative* and *Property*, and false Colours must be put upon indirect Attempts, before they can be drawn in to *wave* their own Power, or *infringe* the *Rights* of their Subjects. New Arts now are necessary to an *insidious Statesman*; and because it is impossible to seduce his Prince's Integrity, or impose on his Wisdom, by a true State of Things; he labours to put a plausible Gloss upon his Measures, gilds them over with the popular Appearances of the Nation's Interest, and so *betrays* his Monarch's Love and Indulgence to his People, to support and countenance the Schemes of a *disguis'd Avarice*, and *lurking Villany*. Nor is he content to abuse the Royal Authority meerly by his own Misrepresentations, another Fetch of Policy is to keep the Royal Ear from being misabus'd: His own Dependants and Minions, the Creatures of his Favour, and Abettors of his Vices, are planted about the King's Person, to block up and intercept the Possibility of Detection. I may be bold to say with *Cicero* upon this Head, *Ubi cumque hoc factum est, improbe factum est; quicumque hoc fecit, supplicio dignus est. Wherever such Artifices are practised, they are impious in themselves; and whoever it is that puts them in practice, deserves a Punishment equal to his Crime.*

I SHALL be yet thought, perhaps, a little too remote from the purposed Subject of this Pamphlet; and that I am only beating the Bush, while all my Readers are expecting that I should start the Hare.

THE Case of my Lord Chancellor BACON, which I t'other day dipt into, and which I shall consider

consider in the Sequence of this Discourse, is worthy the Attention of the present Times ; and the more so, because the whole Nation is at a Gaze upon the Discovery and Redress of their late Ruin : Such a Scene of flagrant Treachery begins to open, and the Actors and Confederates in it are of such Consequence, that all Eyes and Expectations are employ'd on this single Object. The greatest Satisfaction the poor Sufferers have, under this almost general Calamity, is, That their *honest* and *generous* Representatives in *Parliament* are resolv'd to search into the Source of their Misfortunes, and detect the *secret Springs* and *Machines*, by which so much Fraud has been set on foot and perpetrated.

ALL Points of Guilt have ever been reckon'd to be aggravated from the Quality and Circumstances of the Persons committing them ; and the Party that, by *Trust* and *delegated Power*, is put in a Capacity of prejudicing a *Multitude*, and actually does it, is look'd upon with more Horror and Detestation than a *meaner Villain*, whose Baseness only exercises itself on a *private Family*. The Nature of the Crimes, 'tis true, is much the same ; but where the Injuries are most extensive, there will always be most Clamour : and for this reason only, to wave all other, the Subornation of Witnesses, to undermine and overturn a private Property, will never be reckon'd to amount to a *Bribery*, *accepted* to purchase *Indirection* in any *National Case*.

IT must be admitted, that the Corruption of great Officers has been almost as old as the
Con-

Constitution of the very Offices they fill'd: Human Nature is so deprav'd, and we have such a Fund of unreasonable Avarice in us, that no Augmentations of *Honour*, no large Allotment of *Salary*, no Superaddition of *establish'd Perquisites*, can confine us to the direct Road of Honesty; but we warp and run byas into sinister Gains, and pollute our Hands and Consciences with illegal Graspings: as much the Distemper of a corrupted Mind, as Convulsions are of a disorder'd Body! It will be as easy to shew, and not impertinent to the present Purpose, that however Bribery may have prevailed in all States and Ages, it has ever been regarded with the utmost Detestation, and discountenanc'd with wholesome Severities.

I WILL not suppose my Readers so unacquainted with their Bible, as not to remember what numerous Injunctions there are in the Holy Text against Corruption, and the perverting of Judgment thro' Bribes. The more *O-riental* Countries, and from whom the *Hebrews* deriv'd a great part of their Laws, had I time to search so deep into Antiquity, call'd Criminals of this sort to a very strict Account. There is a remarkable Instance of this kind recorded of *Cambyfes*, a Prince of many insufferable Vices, but famous for the Severity of his Government, and the Strictness of an inexorable Justice. This Prince had a particular Favourite, whom he made a *Judge*; and this *Judge* reckon'd himself so secure in the Credit he had with his Master, that without any more ado, *Causes* were bought and sold in the Courts of *Judicature*, as openly as *Provisions* were in the *Markets*. So
soon

soon as *Cambyſes* came to underſtand how this ungrateful Wretch had *proſtituted* his *Royal Dignity* for *Gold*; together with the *Liberty* and *Property* of his People, and the *Honour* of his *Administration*; he cauſ'd his Minion to be taken up, and degraded, his Skin ſtrip't over his Ears, and the Seat of Judgment cover'd with it. He order'd his Son, in the Concluſion, to ſucceed the Father in his Character and Office; and to deliver Judgment from that very Chair: that having this Memorial of his Father's Crime and Infamy before his Eyes, he ſhould never ſlip aſide from the Duty of his Truſt. And thus this Prince, by that ſevere Act of Juſtice, and by the Choice he made of the Son to ſucceed the Father, gave Proofs that his Heart was free *Perſonal Malice*, and that he hated nothing that belonged to the *Judge*, except his *Villany*.

IF we look a little into the Political State of *Greece*, we ſhall find one Action among their Laws, which they term'd *Δωροδοκίας δίκην*, a *Proſecution* for taking *Bribes* to manage any *publick Affair*, or pervert Juſtice. Nor was it thought enough by this Proceſs to puniſh the Receiver, but the Perſon alſo that offer'd Bribes was proſecuted: Now all who were convicted of receiving Bribes, were fined ten times the Value of what they had gain'd, and puniſh'd with the higheſt degree of *Infamy*.

THE Word *Infamy*, to ſuch as are not ſo well vers'd in the State of *Greece*, may ſeem only a publick Diſgrace, in point of Character and Reputation; and therefore I muſt, in a few words, explain its Conſequences. We are told,
that

that of this *Infamy* (which they call'd *ἀνυμία*,) there were three Degrees. * The *First* was, when the Criminal retain'd his Possessions, but was depriv'd of some Privilege, which was enjoy'd by his Fellow-Citizens. The *Second*, when he was for the present depriv'd of the Privileges of Free Citizens, and had his Goods confiscated. And the *Third*, when He, with all his Children and Posterity, were for ever depriv'd of all Rights of Free Citizens, both Sacred and Civil. † And out of those who fell under this last Censure, some were appointed to drudge in the Gallies.

NOR were the *Romans* less express, or rigid, in providing against, and punishing this Corruption. They had, in the first place, their *Repetundarum Actionem*, a Prosecution for the Recovery of such Sums as had been obtain'd, or extorted, by Indirection. And *Sigonius* informs us, that such Moneys were term'd *Pecunia Repetundæ*, nempe, *quæ possent repeti*, which might by the Course of Law be recover'd: namely, such Money as any *Magistrate*, *Judge*, or *Publick Officer*, did either in the Provinces, or in the City, receive as a *Bribe* from the Allies, and Associates, or from the *Roman* Citizens, for the Administration of Justice, or the Execution of any publick Duty.

, || *L. CALPURNIUS PISO* procur'd a Law to pass, whereby a certain *Prætor* was ordain'd

* Andocides de Mysteriis.

† Schol. Aristoph. in Ranis.

|| Cicero in Bruto.

for the Inquisition of this Crime, and for laying a heavy Penalty on the Persons offending.

* *M. JUNIUS PENNUS*, the Tribune, afterwards preferr'd a Law, propounding, That on such as were convicted of Bribery, *Præter Litis æstimationem Exilium etiam Damnato esset irrogatum*; That besides the rating of the Damages, the Person convicted of this Crime should suffer Banishment.

† *M. ACILIUS GLABRIO*, lest the Criminal should evade Punishment thro' any Delays of Court, inforc'd the preceding Laws with one particular Clause, that the Persons brought in guilty of Bribery, *neque ampliari, neque comprehendinari possent*, should have no Rehearing, or Enlargement of Time, no Adjournment of Sentence, or Reprieve of Judgment.

IT is easy, from this short Allegation of old Statutes, to see what Dread and Abhorrence the *Greeks* and *Romans* entertain'd of this base Crime: and it would be no difficulty, were it not too remote from my Subject, to prove how often and how deeply both those Commonwealths were betray'd thro' its means; how often the Interests of the People were sacrificed to the private Factions, and canvassing for Offices of their Great Men; and how often their very Constitutions were overturn'd by

* Cicero in Verrem. Velleius Paterculus.

† Cicero in Verrem.

extravagant Donations made to the Soldiery, or by winding themselves into the Bosoms of the Senate. It is a Remark upon the latter of these States, by an * Author in very good Repute among the Lawyers, *Nullâ aliâ re magis Romana Respublica interiit, quàm quod Magistratûs Officia venalia erant*: That the Destruction of the Roman Commonwealth was owing to nothing more, than that the Offices of their Magistrates were made venal. We may easily conclude things were come to a notorious Height of Corruption, when a Foreigner could see so far into their Abuses, that, upon his Departure from Rome, he cry'd out, † *Vale, venalis Civitas, mox peritura, si Emptorem invenias*: Farewell, thou City that art set up to Sale, and only wait'st for a Purchaser to conclude thy Ruin.

IT is now more than time, and I am impatient myself, to draw my Lines nearer to their Centre; and to take a View of what Construction our Laws at home put upon the Crimes of *Bribery* and *Extortion*. The Terms, indeed, are not synonimous, but they are homogeneous in their Operation and Effects.

MY Lord Coke, in his Commentary upon *Littleton*, is pleas'd to observe, that || *Extortion, in his proper Sense, is a great Misprision, by wresting, or unlawfully taking by any Officer, by colour of his*

* Ærod. f. 353.

† Salust in Jugurth.

|| Coke upon Littleton, l. 3. c. 13. sect. 701.

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Office, any Money, or valuable thing, of or from any Man, either that is not due, or more than is due, or before it be due. *Quod non est debitum, vel quod est ultra debitum, vel ante tempus quod est debitum.* For this it is to be known (adds he) that it is provided by the Statute || Will. 1^{mi}, that no Sheriff, or any other Minister of the King, shall take any Reward for doing of his Office, but only that which the King alloweth him, upon pain that he shall render double to the Party, and be punish'd at the King's Pleasure.

YOU have here the Definition of the Crime explain'd, take with it his Comment of the Heinousness of its Nature: * *Of this Term it is said, it is no other than Robbery; and another saith, that it is more odious than Robbery, for Robbery is apparent, and hath the face of a Crime, but Extortion puts on the Visor of Virtue, for Expedition of Justice, and the like.*

TO trace all the Sources of Corruption in great Officers, were to make this Discourse much too prolix, and fill it up rather with Digression than proper Matter. One great Cause, indeed, of Corruption in Magistrates, and Ministers of State, (*but which is far from being the Practice of our Times*) is, when they obtain their Employments by *Bribery, or Purchase*; (which, in this Case, I look upon to be the same thing) I say, when they come into Offices in this man-

|| W. 1. c. 26, &c. W. 1. c. 10. 42 E. 3. 5. 27 Aff. 14. Pl. Com. 68.

* *Coke upon Littleton*, l. 3. c. 13. sect. 701.

ner, they think they have a Right to take Bribes, which, *mutatò nomine*, they call making the most of their Places; and so the most notorious Subornations have been practised, under the plausible Colour of a Perquisite.

THERE is a Statute * (*Anno 3. Hen. 7.*) against this sort of Bribery, by which it is enacted, That all Deeds of Bargain, Bonds, Promises, or other Assurances of Reward, as well on the part of the Bargainer, as of the Bargainée, shall be void in Law; and so it was judg'd afterwards in the Case of Sir Robert Vernon, Cofferer of the King's House, (*Mich. 13 Jac. 1.*) who sold the said Office to Sir A. J. for a certain Sum of Money: And tho' the said Sir A. J. was by the King's Appointment admitted and sworn Cofferer; yet it was resolv'd by Sir Thomas Egerton, then Lord Chancellor, the Chief Justice, and others, to whom the King referred the same, that the said Office was void by the said Statute. And thereupon Sir A. J. was removed, and Sir Marmaduke Darrel sworn (by the King's Commandment) in his Place. For by another Statute, made *Anno 31 Eliz.* in the particular Case of Presentations, and for the suppressing of Simony, and such corrupt Agreements, the Act so binds the King, as he cannot present him whom the Law has disabled †.

AND therefore, as my Lord COKE || is pleas'd to observe finely, by the Law of England

* Coke upon Littleton, l. 3. sect. 378.

† Idem, l. 2. sect. 181.

|| L. 3. sect. 378.

it is further provided, * That no Officer or Minister of the King shall be ordained, or made, for any Gift or Brocage, Favour or Affection; nor that any which pursueth by him, or any other, privily or openly, to be in any manner of Office, shall be put in the same Office, or in any other: but that all such Officers shall be made of the best, and most lawful Men and sufficient. A Law worthy to be written in Letters of Gold, but more worthy to be put in due execution. For certainly never shall Justice be truly administred, but when the Officers and Ministers of Justice be of such Quality, and come to their Places in such manner as by this Law is required.

WE have yet seen only how the Law disqualifies any Man for *obtaining* an Office by *Bribery* or *Purchase*; and it now remains to be consider'd both what have been, and ought to be the Consequences of abusing the Dignity of any Office, either by *receiving* a Bribe from private Persons for the Execution, or Subversion, of Justice; or for taking Money in any *National* Procedure, and prostituting the *Honour* and *Authority* of the Crown to *illegal Avarice*.

THE Case of Sir *FRANCIS BACON*, who was created Viscount of *St. Albans*, and *Lord Chancellor*, is a Presumption of Bribery, (as some have said) for a private Decree, pronounced in the Court of Chancery; and tho' not less unworthy of the Dignity of a Chancellor,

* 12 Rich. 2.

yet much less heinous than the Prostitution of his own Conscience, and the Liberty of the Subject, in one and the same Act.

I THINK it not unnecessary, for Reasons which will very soon be obvious to my Readers, to give first a short Character of this Great Man. (They, who have a mind to know what Estimation he was of among the Learned abroad, may consult Monsieur Bayle, Monsieur Baillet in his Life of Descartes, Gassendus of Bacon's Logick, and Costar's Letter to Monsieur Voiture.) He was not only the greatest Man in the Law of that Age, but the most knowing in other kinds of Literature; as may be seen by his excellent Tracts in Philosophy, as well as by his Treatises of Law.

AS to his Behaviour in publick Employments, the * Writer of his Life says, When his Office call'd him, as he was the King's Attorney, to charge Offenders, either in Criminal or Capital Causes, *he was never of an insulting or domineering Nature over them*, but always tender-hearted, and carrying him decently towards the Parties, (tho' it was his Duty to charge them) but yet as one that look'd upon the *Example* with the Eye of *Severity*, but on the *Person* with the Eye of *Pity* and *Compassion*. And in Civil Business, as he was Counsellor of State, he had the best way of advising; not engaging his Master in any precipitate or grievous Courses, but in moderate and fair Proceedings: the King,

* Dr. William Rawley.

whom he serv'd, giving him this Character, that he ever dealt in Business *suavibus modis*, which was the most according to his own Heart.

HERE are all the Qualifications of a faithful, wise, and an able Minister; a Man that seem'd made to draw the Affections of the People upon their Prince; yet all sullied by one inglorious Imputation, which made him at the same time both pitied and despised. Then his Tongue, as a very elegant * State-Writer expresses it, that was the Glory of his Time for Eloquence, that tun'd so many sweet Harangues, was like a forsaken Harp, hung upon the Willows, whilst the Waters of Affliction overflow'd the Banks.

THE Historians of those Times are very obscure as to the Particulars of the Fact, (so that I must sift more narrowly into the Substance of the Evidence) and most of them, who have wrote any thing of him, seem willing to think him innocent of the Crime suspected. There is one, indeed, *ex post factò* Circumstance, which, I think, goes a great way to prove him so; that is, his Poverty after he was degraded. † One Eminent Writer says, that he treasur'd up nothing either for himself or his Family; but his fatal Error was his Indulgence to his Servants: But (what is particularly remarkable in his Character, and worthy the Notice of all his Successors to the Seals) *his Decrees were al-*

* Wilfon in his *Life of King James I.*

† Mr. Echard's *History of England.*

ways made with so much Equity, that none were ever revers'd as unjust.

HOWEL says, he writ a very moving Letter to the King a short time before his Death, praying for some little Pension, lest he should be reduced to Beggary. The same Author adds, that his Poverty was owing to his Contempt of Riches, and his Carelessness of Things that concern'd this World.

THIS, in many Cases, would be Proof enough to acquit him in the Breast of every knowing Man; since He, that has Philosophy enough to despise Money, can never be guilty of a base Action to acquire it.

IF the Persons under a present Examination, and Those, who may hereafter be discover'd Partners in the same Frauds and Corruption, have this *purging* Circumstance of *Probity* on their sides; I don't doubt but they will be acquitted, and, I dare answer, that every honest Man will be inclin'd to think them perfectly innocent.

THE Laws, I know, that defend the Liberties and Properties of the Subject, do not oblige every Rich Man to give an Account how he came by his Riches; but, against a Person charged with Crimes, the Case is quite otherwise. There is no Law to confirm a Highwayman in the Property of what he has plunder'd; and the present Delinquents should be put in mind, that tho' they have transacted with so much Secrecy and Cunning, as to make it difficult

ficult to find Proofs against them ; yet a sudden great Fortune, without any visible way that is honest of raising it, gives very strong Suspicions of Knavery : and in *Criminal Cases*, as I shall anon shew, where proper and sufficient Evidence cannot be had, yet *glaring Circumstances* and *violent Presumptions* amount to a *Proof*.

THERE is a Country, as I am told, almost in the same Latitude with us, that not long ago was reputed very rich ; many wealthy Companies were establish'd there by Charter, at which, in their General Meetings, or Courts for Business, every Adventurer has a liberty of haranguing or proposing what he thinks for the Good of the Publick. The Orations of these Assemblies are generally deliver'd in a Style so profound and mysterious, that scarce any one Man can comprehend what another would be at : (But this is the Perfection of Mechanic Eloquence.) Only one thing is to be observ'd as a standing Rule with them, that if any one has some *knavish* Design in his Head, he is sure to be *loudest* for the *Publick Good*.

IN one of these Assemblies, a certain Person of a *Plebeian* Extraction, but somewhat exalted in *Fortune* and in *Opinion*, told the Company, *he look'd upon that Man to be an Enemy to his Country, who would not throw all his Substance into such a Bank, above what would subsist his Family a Week.* This Speech, it seems, had the Effect design'd, coming from the Mouth of a *Patriot*, who was supposed to know and have his Country's Welfare at heart : they, who had any Money by them, press'd to become Purchasers,

D

while

while *his* Agents were selling, at an exorbitant Price, what he knew not worth above a ninth Part of the Purchase required. And thus he carried the Fortunes of many Families into his private Coffers.

THE Publick-spiritedness of such a Patriot as this, puts me in mind of a Story, very much parallel to his Conduct. Several Countrymen being Tenants in common to the same Parcel of Land, which they sow'd with Corn; when the Time of Harvest came, the Grain ripen'd for the Sickle, and every one was big with Expectation to reap the Profits of their Expence and Labour; one, among the rest, persuaded them not to take it off the Ground yet, but to stay till it fill'd and harden'd better, and then it would yield double the Quantity of Flower. In the mean time he employ'd several Vagabonds for Hire, who went together in the Night, cut down the Corn, stole it off from the Land, and laid it up privately in his own Barns; while the poor Neighbours, that ought to have shar'd in the Crop, were almost perishing for want of Bread.

IF such a Villany as this had ever happen'd among *us*, I cannot pretend to determine how the Criminal would have been treated; for, I think, our Nation always tempers its Justice with Humanity: but I can guess how he would have been handled at *Athens* or *Rome*. At the *first*, 'tis probable, the inrag'd Populace would hardly have waited for the Formality of Justice, but torn the Delinquent to pieces in the Fury of their Resentments: at the *latter*, he would have

have been oblig'd to take a Leap from the Summit of the *Tarpeian* Rock.

IF there be any such Persons as these now living, I am much afraid they stand upon a Precipice: and as it is observable, that there is a Weakness in some Constitutions, that if from a low Place they ascend any great Height, it suddenly makes their Heads giddy; if any of these unguarded Climbers are mounted, all that I can say, is, I wish them well *down*.

BUT to return to a further Survey of my Lord *BACON*. Either the Wickedness or Weakness of Great Officers have been the Grievance of the People in many of the Reigns of our *English* Kings. King *JAMES* the *First*, we find, (to go no further off for an Instance) was, thro' the Intercessions, and with private Views of his Favourites, notoriously impos'd on in granting Patents to private Persons, (*viz.* Sir *Giles Mompesson*, and Sir *Francis Mitchel*) for giving Licences to Inns, Alehouses, and Makers of Gold-Thread. The Projectors being empower'd by their Letters Patent, enter'd upon any mischievous and pestilent Measures, by which they could find any Benefit: and, as my * Author says, they grew so ravenous upon the poor People, that they grated them to the Bones, and suck'd out the very Marrow of their Substance.

BUT tho the Patents were granted to these private Persons, they were but the *Tools* and

* *Wilson's Life of K. James I.*

working Instruments of Mischief. The Corruptions were concerted and abetted by *Politicians* behind the Curtain, who, had not, however, Subtilty enough to skreen themselves from the Odium of *Suspitions* and *Accusation*. For their Oppressions were thoroughly ript up and open'd by the *House of Commons*; who, discovering that the King had some little Profit by these Patents, generously resolv'd to make it up to him another way: therefore, they gave him two entire Subsidies; well judging, that those Contributions, that come from the People's Love, flow freely like a Spring-Tide; but illegal Taxes, rack'd from their Bowels, and coming thro' so many *Promoters* and *Catchpoles* hands, run very low, and the King *has ever the least share of them* *.

BUT his Temper being thus sweetned by the Goodness of his Parliament, he came to the House, and pass'd Sentence upon the Patents, before the Lords pass'd Sentence upon the wicked Executioners of them.

SIR *Francis Mitchel* was sentenc'd to be degraded, fin'd, and imprison'd; and his Crime proceeding from a base Spirit, his Punishment was answerable: for he was led thro' the City, with his Face to the Horse's Tail, with a Paper on his Breast and Back, declaring his Crime, to suffer the Scorn, Contempt, and Insults of the People whom he had injur'd.

* Idem in eod. locô.

AS for *Mompesson*, he had the same Sentence laid upon him, but was not taken; and tho' the King's *Proclamation* was out against him, he escap'd by the means of the *Marquiss* of *BUCKINGHAM*, who was suppos'd to have a Feeling in these *Extortions*, as having been very active in procuring the *Patents*.

NONE of the *Historians*, (at least, as far as I have either read, or can remember) are particular enough, or seem to suppose that my *Lord Chancellor BACON* had any Feeling in the Affair of these *Patents*. But I shall bring in one Witness, from whom the Information might not be suspected, who intimates a Bribe in this very Case to have been the Slip which overthrew this Great Man.

“ THE Parliament, says he*, whose Bearing was dutiful to the King, was quick and minatory against some *vile Persons*, who had spoil'd the People by *illegal Oppressions*. These were *Cankerworms*, *Harpies*, *Projectors*, who between the *Easiness* of the *Lord Marquiss* to procure, and the *Willingness* of the *Lord Chancellor BACON* to comply, had obtain'd Patent Commissions for *Latent Knaveries*: which Exorbitancies, being countenanc'd in the Court, were grown too strong for any Justice but the *Parliament's* to root them up. There the Appeals of the vex'd Subject were heard, more like to Outcries than Complaints;

* Bp Hacket in his *Life* of *ABp Williams*.

“ which

“ which fell thick upon Sir *Giles Mompeffon*, and
 “ Sir *Francis Mitchel*, for Fines and Levies rais’d
 “ upon Inns and Alehouses, arbitrary Imposi-
 “ tions, and a Precedent dangerous to spread
 “ even to Shops and Warehouses. Others re-
 “ monstrated against a Pack of Cheaters, who
 “ procur’d the Monopoly of Gold-Thread,
 “ which with their Spinning was palpably cor-
 “ rupted and embas’d. These gilt Flies were
 “ the bolder, because Sir *Edward Villers*, Half-
 “ Brother to the Lord Marquis, was in their
 “ Indenture of Association, tho’ not named in
 “ their Patent : A Gentleman both religious,
 “ and true-hearted to good Ways, who was en-
 “ snar’d by crafty Merchants ; and so far ex-
 “ cus’d, that after strict Enquiry, when this
 “ Adulterate Ware came to the Test, it ap-
 “ pear’d that he knew not of the Juggling of
 “ the Patentees, who drew on Grievances with
 “ Threads of Vanity, and Scandal upon the
 “ chief Government with Cords of Iniquity.
 “ Together with these Vermin, (and much
 “ more than these) the *Lord Chancellor* was ques-
 “ tion’d, (and without Pity to his excellent
 “ Parts) the Castle of *Munera* (as I borrow it
 “ from Mr. *Spenser*’s Divine Wit) must be quite
 “ defaced. Monopolies and Briberies were bea-
 “ ten upon the Anvil every day, almost every
 “ hour. The Obnoxious, that were brought
 “ to the Bar of Justice, with a Multitude that
 “ fear’d to be in as ill Condition, saw no way
 “ for Safety, but to poison the King with an
 “ ill Opinion of the Parliament, *that it might*
 “ *evaporate into a Nullity.*”

THE Parliament, wearied, with long Sittings, (as the same Reverend Author informs us) and great Pains, was content against the Feast of *Easter* to take Relaxation, and was prorogued from the 27th of *March* to the 18th of *April*. The *Marquiss* of *Buckingham* had an eye in it upon the *Lord Chancellor*, to try if Time would mitigate the Displeasure, which in both Houses was strong against him. But the Leisure of three Weeks multiplied a Pile of new Suggestions against him, and nothing was prefigured more certain than his Downfall.

IN short, the Opinion of his being faulty spread among the Croud, and Innocency itself then becomes a Crime, when Calumny once sets her Mark upon it. He was immediately dismissed from the *Seals*, degraded from his Peerage, and render'd incapable of any Employment of Trust or Honour, only upon the Suspicion of his Briberies. I say, only the Suspicion, for the Proofs, I think, (at least at first) were no more than Circumstantial, a Purse of Gold found under the *Chancellor's* Seat.

HAD the House, probably, gone closely to work upon the Question of his Fault, Evidence might have been wanting to amount to a Conviction. But my Lord *BACON*, who knew that all Wounds ake with laying open, and that Circumstances are sufficient to blast a Reputation, took a Method to save the Parliament the Trouble of an Examination. For in a supplicating Letter, which he wrote to them, he ingenuously

genuously acknowledges, * That having understood the Particulars of the Charge, not *formally* from the *House*, but enough to inform his *Conscience* and *Memory*, he found Matter sufficient and full, both to move him to desert his Defence, and to move their Lordships to condemn and censure him.

THIS Confession, join'd with the Clamours of the exasperated Subject, had, 'tis like'y, brought a much harsher Judgment upon him, than he felt, but that he threw himself, and his Cause, at the Feet of his Judges, with so much Penitence before he was condemn'd; imploring, † That his penitent Submission might be his Sentence, the Loss of his Seal his Punishment, and that their Lordships would recommend him to his Majesty's Grace and Pardon for all that was past.

IN fine, he was a fit Jewel to have beautified and adorn'd a flourishing Kingdom, if his Flaws had not disgraced the Lustre that set him off. We hardly have a greater Instance in History, how *little Compassion* follows the Person of a *Great Minister*, that is once stigmatiz'd with *sordid Corruption*. Tho' he had a small Pension allow'd him by King *James*, who bore him a Respect for his great Learning, yet he wanted to the last; living obscurely in his Lodgings at *Grays-Inn*, where his Loneliness, and desolate Condition, wrought upon his ingenious, and

* Wilson's *Life of King James I.*

† Idem *ibid.*

therefore then more melancholy Temper, that he pined away : and had this Unhappinefs after all his height of Plenitude, to be denied Beer to quench his Thirft. For having a fickly Taffe, he did not like the Beer of the Houfe, but fent to Sir *Fulk Grevil*, Lord *Brook*, in the Neighbourhood, (now and then) for a Bottle of his Beer ; and, after fome Grumbling, the Butler had orders to deny him *.

YET while I am pitying the Misfortunes of this Great Man, I cannot forbear commending the Honour of that illuftrious Houfe of *Peers* who condemn'd him. They judg'd it an Indignity to their Honourable Body, that one fhould fit among them, *efpecially in the Quality of their Speaker*, who had been fo much as *fufpected* of fo *scandalous* a Corruption.

IT is very remarkable in the Story of *Julius Cæfar*, that Noble Roman, that he difmifs'd his Wife *Pompeia*, whom he very affectionately lov'd, for the very Shadow of an Imputation. Perhaps a *Roman* of an ordinary Rank would not have been fo delicate in the fame Circumftance ; but *Cæfar*, who was in all things both Wife and Noble, knew well, that Reputation, when once blacken'd with the leaft Blemifh of Suspicion, never can recover its native Whitenefs more ; and particularly when Perfons are placed in a Rank above us, we fee their Stains as thro a magnifying Glafs. It happen'd at one of the Women's Sacrifices, folemniz'd in *Cæfar's* Houfe, and at which it

* Idem ibid.

was a Prophanation for any Man to be present, *P. Clodius*, a luxurious young Nobleman, was detected in Women's Clothes. Whether the young Fellow's Curiosity only led him to see these forbidden Mysteries, or that he had an Intrigue in his head, it might as well have been suppos'd on any other Lady of the Company: but *Cæsar* thought his Honour oblig'd him to divorce *Pompeia*, alledging, *That Cæsar's Wife ought not to be so much as suspected* *.

MORE Reason had that august Assembly of Peers to think, that a Member of their House, and a first Officer of the State, whose single Decree was of force to decide the Property of the Subject, ought not to enjoy the Privileges in dishonour of their high Rank, if he was but suspected of so mean a Crime as *Bribery*.

A MAGISTRATE of suspected Honesty may be fear'd because of the Power he is invested with, but must at the same time be hated and despis'd. The Ministers of the Gospel are oblig'd, for Example's sake, to be strict and uncorrupt in their Lives; but for much stronger Reasons the Ministers of the State ought to be so. The first are only to exhort, and preach against Vice; the last are to discountenance and punish it. With what Horror must we look upon a Judge, passing a severe Sentence upon a Criminal for Perjury, Extortion, or Bribery; if we know, that he has ever practis'd any of the same Crimes! It puts me in mind

* Plutarch. in Vitâ Julii Cæsaris.

of a very ludicrous Author, who, in his Address to *Tyburne*, makes the following Speech to that awful Tree :

*Could'st thou but judge, as well as execute,
How often would'st Thou change the Felon's Doom,
And hang the stern Chief Justice in his room ?*

IN all publick Cafes, where the Interest and Safety of the People are concern'd, it must be admitted, I think, that it is indifferent whether a Minister betrays the Prince, or his People, for a wicked Reward to the *Enemy* in the Time of War ; or enters into pernicious Practices by *confederating* with a Set of *designing Knaves*, to raise an infamous great Fortune to himself, by *impoverishing* the *Subject*, and that way reducing them to a State of *Captivity*. I know well, the first is declar'd High Treason by our Laws : and, I believe the last, were it to come upon the Tryal, would be pronounc'd so too. For it is one establish'd Maxim in the Law, that, *Ubi eadem est Ratio, ibi eadem est Lex*. No one Statute can foresee or include all Circumstances of being criminal ; but wherever there is the *same Reason for punishing*, there the Law ought to be the *same*.

IN my Lord *Bacon's* Case, the Punishment was equal to the Crime ; there were Circumstances to give a Suspicion of Bribery, and therefore he was unqualified for the Service of the Publick. But had it been prov'd, that he had been a private Instrument of Extortions ; that he had been a Gainer by a Fraud, which prov'd the Ruin of Thousands : had he taken an im-

menſe Sum of Money, as a *Premium*, from wicked Men, for ſuſpending the Execution of ſome Laws, or for putting others in Execution, which he was obliged to do by the Duty of his Great Office; it is not to be doubted, but, in this Caſe too, his Punishment would have been equal to his Crime.

IF there be in the World a Wretch in Office, who has built his own Fortune upon the Ruins of Twenty Thouſands of his Fellow-Subjects; (the meanest of whom is more *honest*, and as *well-born* as himſelf) this Monster, like a Beaſt of Prey that has worried the whole Flock, ought, in common Juſtice, to be hunted down and deſtroy'd.

WHEN a Prince has the miſfortune to be ſerv'd by ſuch, as can be bound by no Ties but thoſe of Private Intereſt, he's exactly in the condition of thoſe Animals, which the Heathen Priests fed up for Sacrifice, deſtin'd to fall, whenever they can get a ſatiſfactory Price for him. A covetous and mercenary Man in Office can never be *honest*; it is a Contradiction in Nature and common Senſe; and we may as well call an Adulterer, chaste. Our own Hiſtory, carefully examin'd, would furniſh a number of Proofs of this Propoſition.

WHEN King *Charles* the *First*, in the Beginning of his Troubles, went to *York*, his General, the Earl of *Holland*, had found out a Perſon, who was willing to give him Ten Thouſand Pounds for the Procuratiſon of a Barony. The General went immediately, and deſir'd the Dignity

Dignity might be conferr'd : That Monarch, who had very right Notions of Honour, could not consent to prostitute the *Dignity of Peerage*, which was design'd to distinguish those, who had deserv'd well of their Country, and as a Reward for great and vertuous Actions, upon a mean and unworthy Person, therefore resolutely thought fit to refuse the Earl. The mercenary, treacherous Favourite disssembled the Sting and Resentment of this Refusal, and parted with all the Appearance of Loyalty, and Acquiescence to his King's Pleasure : but, from that minute betray'd him in all his Counsels. Unhappy, Virtuous Monarch ! who, consulting nothing but the Honesty of his own Nature, never believ'd any Man a Villain till he found him to be such.

PRINCES have but scanty, or rather no Opportunities of looking into the private Lives of Men, the best and most certain Way of judging of Dispositions : and therefore it is no wonder that they should often be mistaken in the Choice of their Servants. The Disguises Men put on, to work themselves into Preferment, may easily deceive a Prince, who knows them but by Appearances. For the Smiles of a Courtier, and of a Harlot, have been frequently compar'd, and so has their Honesty.

SOMETIMES, indeed, one would think Kings very curious in the placing of their Promotions ; when Birth, Quality, and distinguishing Characters are overlook'd, and a few Men are pick'd out, from among many Millions of Subjects, and from the meanest of the People,

People, for the Service of the Publick. Now the Vulgar have no reason to grumble at these Elections, and at seeing a Parcel of themselves toss'd up into a Rank that demands Respect : for the Prince is acknowledg'd to be the Fountain of Honour ; and the Respect we are oblig'd to pay to such, is to their Office, not to the Men. In all degrees of Civil Life, there is a kind of Civility due to the Servant for the sake of the Master ; but whenever any of these Mushroom Favourites come to be degraded, our restrain'd Respect immediately breaks out into the most virulent Contempt.

ONE very fatal Consequence, that too often attends vehement and sudden Promotions, whether the Persons dignified are Laymen, or of the Clergy, is, that they mount the Chariot of Preheminence like unskilful *Phaetons*, without knowing either the Management of the Reins, or the Road they are to drive in. The Result of their Ignorance is to lay down false Maxims of Policy to themselves ; as that the Trust of Power is only committed to them to be subservient to the Pleasure of the Donor, to take care that the Prince never wants Money, however unjust the Schemes for raising it are, (*Lucri bonus est Odor ex re qualibet*) and lastly, tho' ever first in their Consideration, to amass a private Fortune to themselves.

I HAVE not been uncurious, nor indiligent, in canvassing the Histories of our Country, to see the Turn and Genius of our Ancestors and their Times, in Circumstances and Facts relating to the Subject now before me ;
for

for I know this Maxim to be perfectly just,
That Example is ever more prevalent than
Precept.

I HAVE made one Observation, from a Survey of past Times, which I believe will be pretty generally admitted ; which is, that whenever we see the People's Hearts united in Love towards the Person of the Prince, we may without Enquiry be satisfied, that he is serv'd by Ministers, wise, faithful, and honest. On the contrary, it is as obvious, that almost all the Shocks of State, and signal Misfortunes of our Princes, have proceeded from, and been owing to, the Corruption of their Servants.

THERE is a very particular Passage, I remember, in a noted * *French* Author, not a little applicable to the Premises, and which therefore I shall not scruple to transcribe. He is insinuating, (and let him answer for his own Positions) that while an *ill Ministry*, alledging their Master's Name and Countenance, commit Outrage with *Impunity*, tho' the Prince sins not himself, yet he forbears not to be guilty ; that his Ignorance is unpardonable, and his Patience no Virtue ; and that the Disorders which either he knows not of, or which he suffers, are imputed to him before God, even as if himself had made them. With a great deal of reason therefore, (continues he) that Prince, who was according to God's own Heart, in express Terms desires him, and that in the Fervency

* Aristippus of *Monsieur de Balzac*.

of his most ardent Prayers, That he would cleanse him from secret Faults, and acquit him from the Sins of others: These last Words signifying, that *Kings* ought not to content themselves with a *personal* and *particular Innocency*; and that it matters nothing for *them* to be *just*, if they lose themselves by the *Injustice* of their *Ministers*.

IT is a great Question with me, whether the Depravity and Vileness that Human Nature is capable of, do not shew themselves more conspicuously in the Persons of *Statesmen*, than any other Degree of Mortals. I shall give but one Reason for this Opinion, but one which is founded on Practice.

WHEN they are discover'd in their Designs, and justly cast off by their abused Prince, tho' he had rais'd them from Meanness and Obscurity, their common Artifice is to employ the great Fortune, which they have stolen from the Publick, in forming a Party and Faction against their Prince: they insinuate, that their Disgrace proceeded from their Love to the People; and, with all the wicked Arts of Ingratitude, they misrepresent his Honour and Justice: and immediately, from Persons that deserve to be *hang'd* as *Traitors* to the Subjects, set up for their *Patriots*.

THESE violent Methods, which their Inveteracy has made use of, have often made weak Princes sit down with Injuries, and content themselves with the bare Dismission of an overgrown Favourite. But the Multitude are not
of

of this acquiescing Temper; an Indignity against their Honour, or an Inroad on their Rights (*manet altâ mente repostum*) is treasur'd up too strongly in their Resentments to be tacitly slur'd over: and tho' the unhappy Prince has consented to shut his Eyes, and stop his Ears against the Corruptions of a faulty Minister; his Forgiveness has been worse in its Consequences than the Prosecution he dreaded to stir up. We need no greater Demonstration of This, than what actually happen'd in the Case of *Gaveston*, and the two *Spensers*, in the Reign of *Edward II.*

THE Sufferings of the People were so great from the Oppressions of these wicked Favourites, that their Discontents at last broke into an open Rebellion. It is said, that *Gaveston* got possession of the Heart of that weak Prince to such a degree, that he fill'd the Court with nothing but Buffoons, Parasites, and such vile Instruments of Pleasure; and drew the King from all Thoughts of noble and worthy Enterprises.

BY these Lures of Pleasure, and Compliances to his Weaknesses, the King's Attachment to this unworthy Minion so exasperated the Nobility, that they had Recourse to Arms; which, however, had no other consequence than the Death of *Gaveston*, whom they took and executed without any Form of Law, notwithstanding the King's Sollicitations to save him: one of the Lords alledging, that it was better he should perish so, than the Nation be involv'd in a Civil War.

F

THIS

THIS might have been a Caution for Life to this unhappy Prince, not to trust the Reins of Power again into the hands of any new Favourite. Yet, after this, he fell into the same Weakness with respect to the two *Spensers*, who govern'd his ductile Temper as they pleas'd. These, being possess'd with a Spirit of Pride and Rapine, were carried to such intolerable Actions and Oppressions, that the People groan'd under the Tyranny of their Administration, and *Gaveston* with good reason was wish'd for again. This drew on a second Rebellion, whose Event was much more fatal than the former; for the two *Spensers* were not only hang'd, but the King oblig'd to resign both Crown and Dignity.

A PARLIAMENT was summon'd, by which it was adjudg'd and declar'd, That King *Edward* was unfit to govern the Kingdom any longer; and the following Articles were alledg'd against him :

THAT, during the Course of his whole Reign, he had been *mised* and govern'd by others; who gave him *evil Counsel* to the Dishonour of himself, and the Destruction of the Church and his People, not *considering* or *knowing* whether it was *good* or *evil*.

SECONDLY, That he would never submit to good Counsel, nor the good Government of his Kingdom; but neglected the Business of the Realm, and gave himself to Works and Employments unbecoming his Station.

THAT

THAT by his Pride and Cruelty, he destroy'd the *holy Church* and her chief Ministers; *imprisoning* some, and *distressing* others; and also that he *executed, imprison'd, banish'd, and disinherited* many *great and noble* Men of the Land.

THAT whereas he was bound by Oath to do Justice to all, he only observ'd his *own Profit*, and the *Avarice* of his *wicked Counsellors*.

AND, lastly, That he *abandoned* his Kingdom, and endeavour'd to destroy it, and his People; and, what was worse, by the Default of his Person he was become *incorrigible*, and past all Hopes of Amendment: all which Charges were so notorious, as not to be gainsaid.

THE Miscarriages of this Prince were owing only to Nature, who had not given him a Soul fit for Empire; and we need only appeal to his Character for Confirmation of it, as it stands in our gravest Historians.

UNDER this King, says One *, who could neither gain nor keep, the Nation endur'd all those Calamities, which could proceed from the Weakness and Levities of a Child. His very Nature was so passive and complying, that he seem'd not only to have been govern'd, but even actuated by his Favourites; who directed and carried him as they pleas'd, commanded his Person and Kingdom, and only made use of his

* *Mr. Echard's History of England.*

Name, to countenance their own Villanies. For this Prince was not, like some of the former, ruin'd by a violent Grasping at unlawful Power; but by meanly subjecting himself to the Power and Guidance of others. And as Pride, Obstinacy, and Ambition, were the Vices that embroil'd some of our former Reigns; so Easiness, Complacency, Submission, or rather Subjection, were the Ruin of This. In short, he was more *weak*, than *wicked*; and his *Exorbitances* met with as *great*, or *greater*, in his *People*.

THE Extract which I have made in relation to this Prince, may seem to have withdrawn me too far from my Argument; but, I dare say, whoever will give themselves the trouble of weighing it in all its Parts, will perceive it not to be so distant from the Question in Debate. If I do not all along keep religiously to Instances arising from Cases of *Bribery* and *Corruption*, it will amount to the same, if I shew, that Extortions in any Minister, and racking the People by exorbitant and illegal Demands, by the Countenance of Power, and pretended for the Service of the Prince, whenever they are conniv'd at, or pass'd over without Censure and Correction, have prov'd fatal to the Peace of the Commonwealth.

IT is an old Observation, that the Custom of *cunning* Favourites is rather to do *great*, than *good* Actions. Great Officers are sometimes, by the very Terms of their Promotion (which, by the way, is Brocade and Purchase of their Offices, and within the Statute already quoted,

Anno

Anno 12 Rich. II.) under Obligations of supplying their Prince's Necessities ; as was the Case of the great *Cardinal WOLSEY*, who had undertaken the King should never want, as long as he might manage the publick Affairs. And what does this Great Man in pursuance of these Conditions ? He makes out Commissions into all the Counties of *England*, for levying the Sixth Part of every Layman's Goods, and the Fourth of the Clergy, for the particular Service of the King. The People in general were so disgusted at this Extortion, that they were ready to break out into a Rebellion ; alledging not only their own Poverty, but that the Commissions were against Law.

IT was necessary that this Affair should be called to the Question ; and the Cardinal was prepar'd to skreen himself by a sophistical Apology, that he had done nothing *without first advising with the Judges*, who positively affirm'd the King might lawfully demand any Sum by Commission, and that the Council of State confirm'd this Method. However this adventurous Politician's Schemes might be privately authoriz'd by his Master's Knowledge ; the King thought it safer to consult the Force of *popular Discontents*, than to have a *scrupulous* Regard to his *Statesman's* Character, resolv'd to disavow the whole Proceeding, and by Letters to all Parts declar'd to his People, that he expected nothing from them but by way of Benevolence.

THO Cardinal *Wolsey* might, probably, have finger'd a Part of the immense Sum to have been rais'd by this Project ; yet the Project itself

self neither falls under the Infamy of *Bribery* or *Corruption*. It was the Enterprize of an arbitrary Minister, who was confident of Impunity, and thought himself safe in the Favour, and under the Protection of his Prince, since the Money to be collected was in his Name, and for his particular Service.

'TIS true, it was a flagrant Abuse of Power, and a heavy and unmerciful Exaction upon the Subject: But Imputations of a later Date, if as true as they are suspected, and proclaim'd to be, stand in a very different Point of Light. To make the *Regal* Authority subservient to its own *Dis honour*, is a Boldness sufficiently *black* and *scandalous*; but meanly to confederate with *Knaves* and *Mechanicks* in a Fraud to cheat the People, looks more like the Vice of one bred up in the Mysteries of a *common Thief*, than the *Policies* of a *Statesman*.

BUT if this Attempt of *Wolsey's*, as I have above observ'd, does not amount to the Guilt of *Bribery* and *Corruption*, I shall, by an Instance fetch'd from a succeeding Reign, prove, that one, who was both an *ARCHBISHOP* and a *CHANCELLOR*, negotiated the Affair of *National Bribery*, brought over the *Parliament* and *Nobility* to his Schemes, and was partial in his very *Equity* upon the Bench, to such as he knew not to be of his Faction and Opinion.

WHEN the Treaty of Queen *MARY's* intended Marriage, with the Emperor's Son, was first discover'd here at home, the House of Commons were much alarm'd at it, and sent their

their Speaker, and twenty of their Members, with an Address to her not to marry a Stranger; in which they shew'd so much Heat and Resentment, that the Court judg'd it necessary to dissolve the Parliament.

UPON this, *Gardener* let the Emperor know, that the Jealousies rais'd upon account of the Match were so strong, that unless very extraordinary Conditions were offer'd, it might occasion a Rebellion: and he further wrote to him, that large Sums must be sent over, both to gratify the Nobility, and enable them to carry the Elections in the next Parliament against all Opposers. Accordingly there were no less than Four Hundred Thousand Pounds sent over, and *divided* at the *Discretion* of *Gardener*, and the Emperor's Ambassadors. Nor did this designing *Prelate* make a less base Use of his Power, as *Chancellor*, to oblige all People to comply with him; for, in his Court of *Chancery*, no *Favour* or *common Justice* was shewn to Persons who were not of his Interest.

AFTER this, another Parliament was chosen, but the most considerable Members were *corrupted* by *Gardener*, who gave them Pensions, some of two hundred, and some of one hundred Pounds a Year, on all Occasions to secure their Voices; and then, it seems, the Articles for the *Queen's* Marriage were digested and approved of.

BY this Example we may see, when the Publick is once corrupted, how easy it is for a wicked Minister to gain his pernicious Ends.
And

And this may be prov'd by an Example of a different nature from that of *Gardener*, which is of *Spurius Cassius* amongst the *Romans*: This *Spurius* having some ambitious Designs in view, thought of winning over the People to his Interest by doing them good Offices; the first whereof was, to sell them those Fields which the *Romans* had taken from the *Hernici*. But his Ambition was seen thro, so that when he harangued the People, and offer'd to give them that Money, which the Corn was sold for, the Senate had caus'd to be brought from *Sicily*, they refused it, looking upon it to be a Bribe, and thinking that *Spurius* had a Design upon their Liberty. But had that People been corrupted in their Natures, they could not have refused this Bribery; which had the Appearance of a free Donation: so that they would have open'd him that way to Tyranny, which by their Vertue they shut against him. But had *Spurius* lived in the time of *Marius* and *Sylla*, when publick Vertue grew debauch'd, and the People were tainted with the Vices of Avarice and Luxury, he could not have miscarried in his Designs: So, on the other side, if *Sylla* and *Marius* had lived in the Days of *Spurius Cassius*, their Attempts would have been crush'd in the very Egg. Therefore, by a Parity of Circumstances, we may conclude, that had *Gardener* lived in our Days, (tho he was both a *Bishop* and *Chancellor*) he would have been expos'd to Infamy, and suffer'd some shameful Punishment, for attempting, what he in his own executed with Success.

BEING thus let into the Mystery of *Bishop Gardener's* Conduct, there is no great room to wonder

wonder why the Parliament never call'd him to any account for these Corruptions. Had they but threaten'd any Prosecution against him, no doubt, he would have made their Defection publick. Or, on the other hand, if the few uncorrupted Members had made any steps against him, or their Brethren, who were guilty of taking the Bribes, the stirring up the Discovery might have turn'd to their own Confusion. The delinquent Party would have been alarm'd, and join'd for their common Defence; and, of consequence, being the most *numerous*, would have *overcome*, if not *expell'd*, their *Accusers*. GARDENER, therefore, shew'd a masterly Address in Roguery, when he made Those, who were to be his Accusers and Judges, Partners in one common Bribery with him.

THE Reflections, that naturally arise from such a Circumstance, call to my mind a beautiful Sentiment in one of *Shakespear's* Plays. A corrupt Judge, having sentenc'd a Man to die for debauching a young Lady, whom he is afterwards willing to marry, the Sister of the Party condemn'd comes to entreat for her Brother's Life; when the Judge, enamour'd of her, and reflecting with himself on the Nature of his wild Desire, breaks out into this sententious Reasoning :

*Thieves for their Robberies have Authority,
When Judges steal themselves!*

A Sentence so plain, as well as beautiful, that it needs no Application.

G

BUT

BUT to return to my Subject. In Confederacies of this kind, where None are in the Secret but the Parties guilty, it is no easy matter to fix their Guilt. Nor can I think of any Expedient in such Cases, but that common one which is practis'd towards Highwaymen, of giving Pardon and a Reward to one for discovering the rest of his Gang. This Encouragement seldom fails of Success; for the same Argument, that prevail'd with them to commit one Roguery, induces them to commit another. The Friendship of Villains, that is always link'd on Self-Interest, is soon dissolv'd, when more is offer'd for their Treachery.

ONE of the greatest Hopes the Subject has from the present Examinations before the two Houses, is, that the Directors will be so sifted and canvass'd in their Frauds, that in their own Defence they will be oblig'd to unravel the inmost Mysteries of their Schemes; and to save their own Lives, detect the Concurrence of others in their Villanies, who have not only been Sharers in the Booty, but Confederates in giving Spirit and Motion to their Designs. If, upon any such Discoveries to be made, Persons should be concern'd, who either by Trust of Power, or Dignity of Office, ought to have oppos'd and stifled the Growth of Villany: If, I say, any Such, for the Lucre of a sordid Bribe, have prostituted their Honours and Consciences, and basely conniv'd at the Destruction of ten Thousand Families; 'tis to be hoped, that neither their Wealth nor Quality will secure them from Punishment; and that the Wisdom and
Power

Power of the Parliament will provide against the Deficiencies of the Law, where it does not reach to Crimes that our Ancestors could either foresee, or hold possible to be put in Practice.

IT is, indeed, a Reproach of a long Standing to us, as a Letter in one of our News-Writers * too truly observes, that *the Inhabitants of these Islands are more liable to Bribery, than any other People under the Sun*; and that no Rank among us has been free from this Taint, seems pretty plain from a Statute there likewise mention'd, and made by *Canutus the Dane*, a little before the Conquest; whereby it is enacted, *That if any Judge should take a Fee, he should forfeit his Head to the King.*

I SHALL transcribe a part of two subsequent Paragraphs, in the above-mention'd Letter; because, I think, the Author is not so plain as some of his Readers could wish, in relation to what he says of my Lord Chief Justice COKE.

HE tells us, " That at the Assizes holden at
 " *Lincoln*, (*Anno 23 Ed. I.*) Sir *William Thorpe*,
 " Chief Justice of the King's Bench, having
 " taken a Bribe of Ninety Pounds from five
 " Persons to stay a Writ of *Exigent* against
 " them; and being tried for the Bribery, and
 " convicted, was sentenc'd to be hang'd, and
 " have all his Lands and Chartels forfeited.

* London Journal, N^o 81.

“ THUS stood the Law in the Time of
 “ *Edward the Third*. My Lord Coke indeed
 “ says, *This Precedent ought not to be follow’d*.
 “ But as he produces no Act of Parliament that
 “ has repealed the Statute, (*Anno 20 Ed. I.*)
 “ we may venture to say, *the Laws stand so at*
 “ *this day*.—And such as have read the History
 “ of the Times, in which my Lord COKE
 “ lived, will, without much Difficulty, find
 “ out the Reason, why his Lordship *would not*
 “ *have this Precedent follow’d*.”

MY Intention is to add a few words here
 for the sake of Those, who have either not read
 the History of those Times, or else may have
 forgot what they had read in a private Circum-
 stance.

THE truth is, Sir *Edward Coke*, the Chief
 Justice, was himself suspected of having re-
 ceiv’d a Bribe; for he had heard and determin’d
 a Cause at the Common Law, and Some report
 there was juggling in the Business. * Nor was
 it an idle Report, as we may find from the Se-
 quel; for the Matter was so aggravated soon
 after, that my Lord Coke, as the same Author
 informs us, was brought on his Knees at the
 Council-Table, and among other Things ob-
 jected against him, he was charg’d, That, while
 he was the King’s Attorney, in the Beginning
 of his Reign, he had conceal’d a Statute of
 Twelve Thousand Pounds, due to the King

* *Wilson’s Life of King James I.*

from the late Lord Chancellor *Hatton*, wherein he deceiv'd the Trust reposed in him *.

WHETHER this Statute were conceal'd *gratis*, and without any Consideration paid for the Service, I shall leave to be determin'd by my Lord *Coke's* best Friends, and most zealous Defenders.

YET the Charge of *Bribery* and *Extortion* against the Lord Treasurer *SOMERSET* was aggravated by this very Lord Chief Justice *COKE*; as the Sentence against him was pronounc'd by my Lord Chancellor *BACON*, who himself was tainted with the same Infection, and not many Years after perish'd in his own Corruption.

IT may be objected, perhaps, that all Monies offer'd and receiv'd for the Execution of his Office in a great Magistrate, are not to be construed a Bribe, but a grateful Acknowledgment in the Person serv'd, for a just piece of Service done with proper Dispatch. This, indeed, was the Plea of a Treasurer and Bishop, *Walter de Langton*, in the Reign of King *Edward* the Second. He took of the Earl of *Montealto*, then a Prisoner, a hundred Pounds to be a Friend to him, and to let him go free to do his Business. Now this Sum was given, as the Record would insinuate, *de Spontaneâ Voluntate*, &c. for a Gratuity, and for the Courtesy of the Treasurer; but this sham Colour was soon

* *Wilson's Life of K. James I.*

thrown off, and the Bishop adjudg'd guilty of Extortion and Bribery.

I CANNOT forbear here inserting, (because we will have to do with one honest Instance) to the Eternal Honour of Dr. *Williams*, who was a Keeper of the Great Seal, and an Archbishop, * That he was never sullied with the Suspicion of loving Presents, no not so much as *Gratuidad di Guantes*, as the *Spaniards* Phrase is: Large Sums, it was well known, were brought to his Secretaries, such as might have sway'd a Man that was not impregnable; and pressing Sollicitations were made, that they would throw them at his feet for Favours already receiv'd: but no Man durst undertake the Office, as knowing, assuredly, *it would displace the Broker, and be his Ruin.*

I HAVE been pretty ample in imbellishing this Discourse with Examples of Persons, who have been guilty both of private and national Briberies and Extortions; and I have shewn occasionally, that it has been the Wisdom of all Reigns, and even where the Parties offending were Minions of the Prince, to call those Persons, who betray'd their Office and the Subject, to the most strict Account.

THIS brings to my Remembrance † one of the Chapters of *Machiavel*, where he makes it his Topick, that in all well-order'd Govern-

* By Hacket in his *Life of ABp Williams.*

† Machiavel in his *Discourses upon T. Livy.*

ments there ought to be publick Accusations and publick Punishments for those, who offend against the People. For, *he says*, there cannot be a more profitable or necessary Power given to those who are appointed Guardians of the Liberty of a State, than That of accusing Citizens to the People, or to those that represent the People, or to some Magistrate, or Council appointed for that purpose, whenever they shall offend against the free State.

THIS Order works two very useful Effects in a Commonwealth; the first is, that wicked and ill-affected Men, for fear of being accus'd, attempt nothing against the State: or, if they should, they forthwith, without any Respect, are suppress'd and punish'd. The other is, that it gives way to vent the Humours that grow in Cities in any manner against any Citizens; and when these Humours have not ordinary Vents, they are apt to break out in violent and extraordinary Manners, and so often prove the Ruin of a Commonwealth. But there is not any thing renders a Commonwealth more settled and stedfast, than to ordain it in such a manner, that the Alteration of those Humours, which put it in a Ferment, should have some Outlet appointed by the *Laws*. There are many Examples which evidence this Maxim, but none more than that of *Coriolanus*, as set out by *Livy*.

THE Nobility of *Rome* being angry with the People, and disdaining to suffer them to keep that Share which they had in the Government, by the Creation of their Tribunes, who pro-

protected them in their Rights, embraced an Opportunity of clipping their Wings of that Power, at a time when the City was in the utmost Want of Provisions, and the Senate had sent to *Sicily* for Corn. *Coriolanus*, a bold Man, and an inveterate Enemy of the Popular Faction, first ventur'd to advise the Senate, that this was the time to chastise the People, and wrest from them that Authority, which so much diminish'd the Power of the *Patricians*, by keeping them low, in Hunger and Want, and not distributing any Corn to their Relief.

IT is impossible to pass by this piece of History, without making a short Remark *en passant*; which is, * That it was ever counted a Maxim among Politicians, who design'd to enslave the People, that the first step towards it was to reduce them to Want and Misery. And therefore it is no wonder that wicked Magistrates should always enter upon Measures to impoverish the Million.

THE Populace, it seems, being appriz'd of this Motion of *Coriolanus*, conceiv'd such a virulent Hatred against him, that, had not the Tribunes cited him to appear to defend his Cause, they would have torn him to pieces in their Tumult, as he came out of the Senate-House.

UPON this Accident we are to note what was said before, that Commonwealths by their

* Isocrates in Oratione de Pace.

Laws give the Means to vent the Choler, which the Publick have conceiv'd against any one Citizen. For, tho, by an orderly Course of Proceeding, a private Citizen should suffer wrongfully; yet this can bring no Disorder on a Republick, since the Execution is done without Civil Commotions, or the Assistance of Foreign Troops, which are the Things that endanger the publick Liberty.

BUT what Mischief might there not have fallen to the Commonwealth of *Rome*, if *Coriolanus* had been slain in a Tumult by the People? This Violence would have been an Offence to the establish'd Laws; this Offence would have created a Fear of Punishment; and this Fear of Punishment would have united them, in their Defence, to secure themselves by greater Outrages: which, probably, might have ended in the total Subversion of their civil Rights.

NOW, this Example alone is sufficient to prove, That publick Accusations and Punishments are necessary, as well as just, against Those who have injur'd the People, tho' it be in Cases which the Wisdom of the Laws had not made penal. A Human Body, if its Constitution be corrupted or impair'd, stands in need of daily Remedies to support it. If a Patient should be afflicted with a new and uncommon Distemper, and his Physician should refuse to apply the Remedy, because this Distemper was not known to *Galen*, or *Hippocrates*; should we not count him very ignorant and foolish? In the same manner a Commonwealth

H stands

stands in need of the Provision of new Laws, to regulate new Disorders; and according as they are more dangerous, the Remedies must be the stronger. Nor ought the Quality of the Offenders to be neglected in the Discipline of the Cure; for what my Lord *Halifax* says of Beggars, may very well be applied to Cheats: where the Poor Ones are only whipt, the Great Ones (out of a proportionable Respect to their Quality) ought to be hang'd.

I KNOW, the Partisans (that is to say, the Accomplices) of our present Delinquents will have it, that this is but a popular Clamour rais'd. against these Men, and that nothing is so various and deceivable as the Multitude.

BUT I shall beg leave to combat this Opinion, which I take to be one of our vulgar Errors: I say, the Multitude (that is, the People) are both wise and just; that they are Lovers of Truth, and always favour it; and in all Controversies and Divisions, when both Sides of the Question are heard, their Inclinations go with that Side, which appears to have the most Justice.

IT is to be remark'd besides, that the Favourites of the People have ever been of shining Qualities, and endued with social Virtues: nor is it scarce ever known, that a corrupt or wicked Man can make himself popular. They generally pay greater Homage to a Man's Virtues than his Good Fortune; and some, that have made themselves Great by Conquests for their Country, while they have been admir'd, have yet

yet fail'd to be beloved, for want of Virtues to recommend them. This shows that their Affections and Prejudices are well grounded. It is observable, that for many Centuries the People of *Rome* not above four times repented them in the Choice of their Tribunes; which is a pretty good Demonstration of their Judgment.

MACHIAVEL, in his Discourses upon *Livy* before mentioned, takes notice, that after *Manlius Capitolinus* was dead, the People wish'd for him again, when they no longer fear'd him; and gives it as his opinion, that could they have had him again, they would have us'd him as they did before, had he taken the same dangerous Measures. This, he says, is not Inconstancy, but Wisdom and Steadiness: it is not impossible, but, by some artful Misrepresentations, the People may be deceiv'd for a while; but let them know the Truth, and you are sure they will defend it.

FROM these two Points being admitted, (and, I hope, they both stand on a good Foundation of Reason) that the People are seldom in the wrong, when the Grounds of their Complaints are general; and that, from the Premises granted, publick Accusations and Punishments are absolutely necessary: it seems a remaining part of my Business to consider of the Methods of Punishment, and what Reserve of Power there is lodg'd in Attainders, in Cases where the Common Law is silent, or ineffectual.

WE know, that amongst the *Romans*, in the Processes upon Criminal Cases, the Lawyers

were wont to reason upon the Nature of the Crime; and if the Fact were found to be *malum in se*, the Criminal was condemn'd and punish'd without any Precedent. Now, the Judgments and Opinions of those * Antient Lawyers, reduc'd to a Method, is what makes up the Body of the Civil Law at this day. This, I say, was the Practice of the old *Romans*, before they fell from that Virtue, which has been so much admir'd in them by Posterity. In the Revolutions and Changes of the Affairs of a Commonwealth, Crimes may be committed, that could not be before; which I take to be the present Case with us: How impotent then must That Legislature be, that had not a Power of punishing those Crimes, which might have been their Destruction, only because they wanted a Precedent? Must not a Government stand upon a very tottering Foundation, if Villains may make Attempts with Impunity, whenever they can find out a By-way of slipping thro the Statute-Law?

MY Lord † *Halifax* describes a sort of Men of a meddling busy Disposition, who, when there is an Impunity for Cheating, think it a Disparagement to their Understandings not to go into it. That there were some Such not long ago, in the *South-Sea* Scheme, every Man believes; because Some of them were ingenious enough to declare it. If the Project were a Cheat at the bottom, why should not they have their

* *Vid.* Ulpian. Justinian. Puffendorf. Grotium, &c.

† *In his Cautions for Choice of Members of Parliament.*

Share of the Advantages? But the Cenforious will have it, that Others too were actuated by the same Principles of Honour, only they were oblig'd to manage with more Secrecy, in regard of their being employ'd in publick Offices. Detection therefore by Proof can hardly be expected here. Their Proceedings have been fenc'd and guarded with such Subtlety and Precaution, that Presumptions and leading Circumstances can only reach them. What Redress then is left? *Nemo seipsum accusare Jure tenetur*: No body is oblig'd by Law to accuse himself; and therefore a Confession in them is not to be hoped for. It would be Ingratitude in such Men as These, as the same Lord *Halifax* finely observes, ever to turn honest, since they owe all they are worth to their Knavery.

MY Lord Chancellor *BACON* knew very well, that the Evidence against him, in his Case, could not have come up to affect him at *Common Law*; but knew too he was to be try'd by a Court, whose Power can supply the Deficiencies of formal Proof: And therefore, in his Letter of Submission to the House of Peers, he tells them, that *Their Lordships are not simply Judges, but Parliamentary Judges; that they have a further Extent of Arbitrary Power than other Courts; and are not tied by ordinary Course of Courts, or Precedents in Points of Strictness and Severity.*

IT is, indeed, a very wide, a copious, and an intricate Enquiry, (that neither will lie within the Compass of this Discourse, nor the Capacity of my Pen) to go about to state precisely the Power and Privileges of Parliaments; and
in

in what Degrees they can act by their Legislative Power, beyond the Extents of any Judiciary Procefs. Their Methods of Proceeding, 'tis very well known, are by Attainder and Impeachment. As it has been canvass'd pretty largely in some State-Tryals, by Members of the House of Commons, and Persons learned in the Laws, where, and upon what Circumstances, Attainders have been practicable ; instead of presuming on any Opinions of my own, I shall extract the chief Topicks of those great Men upon this Head.

IN the Tryal of Sir *John Fenwick*, there was a very great Struggle in the then House of Commons about the Legality of bringing in a Bill of Attainder against Sir *John*, there wanting sufficient Evidence to convict him at the *King's-Bench Bar*.

Mr. *HARCOURT*, who was strenuous against committing the Bill, objected, That he did not remember any one Precedent for attainting a Person who was in Custody, and forth-coming, but what had been universally branded ; and that they were rather Reproaches to the Ill Reigns they were made in, and to be mark'd out as Rocks for us to avoid, than Patterns to be imitated.

SIR *Thomas Dykes*, who was of the same side of the Question, granted, That the Parliament had a Power to make such a Law, but he thought it ought not to be used but upon extraordinary Occasions ; when the Offenders were so big, that they could not otherwise be brought
to

to Justice ; or, where the Crimes did not fall under the Denomination of the Law.

BUT Mr. *Norris*, on the other hand, insisted, That there were several Instances where that House had taken notice of Offences of a less Nature, and for less Reasons, than in the Case of Sir *John Fenwick*, then before them. That the Discretionary Power of Parliaments was like Thunder and Vengeance in the hands of Providence, and not to be used but upon extraordinary Occasions, and then it ought not to fail. For Men would trifle, and despise that Power, that was not able effectually to exert itself. That as to the fear of making an ill Precedent, by a new Bill of Attainder, he thought, as the Law stood, he was but a bungling Politician, that could not ruin the Government, and yet not come within the Bill of Treason, to be hang'd for it. Therefore, for the keeping Ministers of State in awe, and that the House might have it in their power to punish future Offenders, as they saw fit, he was for committing the Bill.

Mr. *ST. JOHN*, (upon a like Occasion, in the Year 1641.) in his Arguments to prove the Legality of the Commons their Attainder against the then Lord *Strafford*, took notice, That here in *England*, the same Law which enabled inferior Courts to judge according to the Laws already made, empower'd the Parliament to make new Laws. And that, tho' double Testimony (according to the Statute made *Anno 1. Ed. VI.*) is to be insisted on in a Judicial Way, yet, in case of a Bill, private Satisfaction to each

each Man's Conscience is sufficient, altho' no Evidence be given at all.

NOR was this the single Opinion of that Gentleman in a single Case; for Mr. Serjeant *Lovel* afterwards, upon the Tryal of Sir *John Fenwick*, observ'd, That one Witness was sufficient to convict the Party of any Treasons till the first Year of King *Edward* the Sixth; and that, as Sir *John* might before that time have been convicted by one Witness, no body could say, but the Parliament might, justly enough, repeal all or any part of that Law. For the Law was not chang'd by that Act, as to the Crime itself, but only as to the Number of Witnesses that were required to prove it. And he did confess, that the Evidence given was not such as the Law required; but that the House, in their Legislative Capacity, were not confin'd to the Evidence that a Jury must have below. That it had been the Wisdom of all Ages to make Laws to punish such, as by their Artifice would evade the Law. And if a Crime, committed against the Body of a Nation, should go unpunish'd, because the Offender could not be come at in the ordinary Course; the Nation was in a dangerous Condition. And, he thought, an extraordinary Case did deserve an extraordinary Punishment.

Mr. *Chancellor of the Exchequer*, upon the self-same Debate, declar'd, That there is lodg'd in the Legislature a Power to judge those Crimes that are shelter'd from the Law: That inferior Courts, indeed, were to go by the Letter of the Law; and whoever could avoid That, might
escape

escape Punishment there; but the Legislature was not to be dallied with: And if the Offence were of that nature, that Inferior Courts could not reach it, they might go beyond all Forms to preserve the Government.

SIR *William Lowther* said, That where Circumstances were notorious, they were to amount to a Second Witness; as he had heard in *Westminster-Hall*, and in Cases of Life too: as, where one comes out of a Room with a bloody Sword, where one is found murder'd, the Law did presume *that* Man murder'd him, tho' there was only this Circumstance.

NAY, and Sir *Joseph Williamson* went so far, to give his Opinion of the Power of Parliaments, as that They might declare That to be a Crime, that was no Crime before it was committed; and, of consequence, that surely they might determine what they would admit as Evidence.

I HAVE made these Extracts with this particular View, to shew the World by Precedents, that the *DIRECTORS*, however secure they thought and boasted themselves, in having done nothing in which they were accountable to the Law, are not skreen'd from this *Dernier Recort* of Justice. When once the Complaints and Groans of a cheated Nation come before those august Assemblies, which compose our Parliament, they will not let a People's Ruin go unpunish'd, because Frauds and Injuries have been too subtly couch'd for the Statute-Law either to overtake or redress them.

BUT it may be objected, That these Arguments for the Legality of an Attainder were provoked on a much stronger Circumstance than is now to be pleaded; the Crime, on which it was press'd for, was no less than High Treason: and the Consequences of that Crime, the intentional Subversion of the Laws and Government.

THE present Case, perhaps, cannot admit of these Aggravations *totidem verbis*; but 'tis a Maxim worth observing, that *Salus Populi est suprema Lex*: I believe it will be granted, that the word *Salus* in this Place does not barely signify the Safety, but also the Reputation and flourishing State of the People. It is scarce a Question, surely, Whether our Coin has not been more drain'd, and our Publick Credit more lessen'd by the Contrivances of this Scheme, than by the Force of our Debts, the Weight of Taxes, and the Expence of tedious Wars, all thrown in Balance against them? We were reckon'd a rich and flourishing Nation, and wanted nothing to make us happy, but to be more united in ourselves, and less divided in Party. Here indeed, we owe a Compliment to the *South-Sea*; for all Animosities and Party-Distractions are swallow'd up in one general Discontent.

IT is now but just the Revolution of a Century, since the same Game was begun to be plaid in *England*; and King *James the First* was so sensible of its Consequences, and the Oppression of his People, that in his Speech to
the

the Lords, (21 *March* 1621.) he says, (with Application to a Simile he had made) * “ Even
 “ so this Kingdom, the External Government
 “ being as good as ever it was, and I am sure
 “ as learned Judges as ever it had, and I hope
 “ as *honest*, administering Justice within it ; and
 “ for Peace both at home and abroad, I may
 “ truly say, more settled and longer lasting,
 “ than ever any before, together with as great
 “ Plenty as ever ; so as it was to be thought,
 “ that every Man might sit in Safety under his
 “ own Vine and Fig-Tree : Yet I am asham’d
 “ (and it makes my Hair stand upright) to con-
 “ sider, how in this Time my People have been
 “ vexed, and polled, by the vile Execution of
 “ Projects, Patents, Bills of Conformity, and
 “ such like ; which, besides the Trouble of my
 “ People, have more exhausted their Purses,
 “ than Subsidies would have done.”

IN short, his Advice was a vigorous Prose-
 cution of the offending Parties, and a Direction,
 that *they would spare none where they found just*
Cause to punish.

IT happen’d, truly, some Great Men were
 involv’d in the obtaining and sharing the Profits
 of some of the Grants ; and therefore would
 willingly have had the Matters slept, or the Par-
 liament dissolv’d, to put an end to their Enqui-
 ries. Whether either of these two Circum-
 stances are in our Case, it is not my Business to
 determine. But it may be worth our while to

* *Wilson's Life of K. James I.*

consider what Archbishop *Williams* wrote to the Marquis of *Buckingham*, who was most apprehensive of having these Grievances of the People ript up and laid open. * He told his Lordship, " That the Parliament in all it had thitherto undertaken, had deserv'd Praise, as well for their dutiful Demeanor to the King, as for their Justice to his People. That his Majesty's Just and Sacred Prerogative was untouch'd; the Grievances of all that were wrong'd, with Indifferency were receiv'd: which they must sift, or betray the Trust of their Country which sent them. There is no Colour, *continues he*, to quarrel at this General Assembly of the Kingdom, for tracing Delinquents to their Form; for it is their proper Work, &c. But your Lordship is jealous, if the Parliament continue imbodyed in this Vigour, of your own Safety, or at least of your Reputation; lest your Name should be used, and be brought to the Bandy. Follow this Parliament in their Undertakings, and you may prevent it: They will seek your Favour, (if you do not start from them) to help them to settle the publick Frame, as they are contriving it. Trust me and your other Servants, that have some Credit with the most active Members, to keep you clear from the Strife of Tongues. But if you assist to break up this Parliament, being now in Pursuit of Justice, only to save some Cormorants, who have devour'd that which must be regorged, you will pluck up a Sluice which

* *Bp Hacket in his Life of ABp Williams.*

" will

“ will overwhelm yourself. The King will find
 “ it a great Disservice before one Year expire.
 “ The Storm will gather, and burst out into a
 “ greater Tempest, in all insequent Meetings.
 “ For succeeding Parliaments will never be
 “ Friends with Those, with whom the Former
 “ fell out. This is negative Counsel, &c.
 “ Those empty Fellows, Sir *Giles Mompeyson*,
 “ and Sir *Francis Mitchel*, let them be made
 “ Victims to the publick Wrath. Let them
 “ be thrown overboard in the Storm; for
 “ there are no Wares in the Ship that may
 “ better be spared. Nay, my Sentence is,
 “ Cast all Monopolies, and Patents of griping
 “ Projections, into the dead Sea after them;
 “ that the World may see that the King, who
 “ is the Pilot that sits at the Helm, is ready
 “ to play the Pump, to eject such Filth as
 “ grew noisom in the Nostrils of his People.
 “ And your Lordship must needs partake in the
 “ Applause; for tho’ it is known that these
 “ Vermin haunted your Chamber, and is much
 “ whisper’d, that they set up Trade with some
 “ little Licence from your Honour: yet when
 “ none shall appear more forward than yourself
 “ to crush them, the Discourse will come a-
 “ bout, that these Devices, which take ill,
 “ were stolen from you by Misrepresentation,
 “ when you were but new blossom’d in Court;
 “ whose Deformities being discover’d, you love
 “ not your own Mistakings, but are the most
 “ forward to recall them.”

I KNOW very well the People will not
 be convinc’d, but that the above Advice is at
 this day applicable to some Persons, high in
 Quality

Quality and Power, who lie under the Imputation of being concern'd in the Frauds of the *DIRECTORS*. Be this as it may, the *publick* *Sufferings* call aloud for as *publick* a *Redress*. I shall therefore wind up this Discourse, which has already branch'd out into too many Particulars, with the Instance of no less a Man than *Cicero*, against as notorious Corruption and Extortion as ever got footing in a Commonwealth. *Nomen vestrum, Populique Romani, Odio atque Acerbitati scitoie exteris Nationibus, Judices, futurum, si istorum hac tanta Injuria impunita discesserit. Sic omnes arbitrabuntur, praesertim cum hac omnino Fama de nostrorum hominum Avaritiâ & Cupiditate percubuerit, non istorum solum hoc esse Facinus, sed Eorum etiam qui approbârunt.* Believe me, you great Judges, your own Reputation, and That of the Nation, will become scandalous and hateful to foreign Countries, if so great Injustice in these Base Men be pass'd with Impunity. For all will conclude, especially when the Infamy of their Avarice and illegal Graspings is in the Mouths of All, that the Injustice does not only come from Them, but from You, who give it a Sanction, by not punishing its Authors.

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